

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,
Plaintiff,

v.

LEONARD MATTHEWS,
Defendant.

Criminal No. 1:18-CR-0124
Civil No. 1:22-CV-1713

-----X

**MOTION FOR EXTENSION OF TIME
TO FILE REPLY TO GOVERNMENT OBJECTIONS**

NOW COMES LEONARD MATTHEWS, appearing before this Court in *pro se*, and moves for an extension of time to file a reply brief to the government's opposition to the originating Motion to Vacate, Set Aside, or Correct a Sentence pursuant to 28 U.S.C. §2255. For the reasons discussed in this filing, the motion should be granted.

I. TOLLING, MAILING DELAY, AND REPLY

My original §2255 petition was filed in my case docket on March 1, 2022, Doc. 109. Eight days later on March 9th, this Court filed an order finding that the §2255 motion should not be summarily denied as being without merit, and ordering the government to respond within 60 days, Doc. 110.

It also ordered that the scheduled date for my reply would be 30 days after the date on which I am served with the government response. "Movant shall have 30 days from the date on which Movant is served with Respondent's answer to file a response." *Id.*

This language accounts for the delay in receiving mail here at USP Lee. That order was given to me six days after it was filed on the docket, reaching me on March 15th. Pursuant to the so-called "Prison Mailbox Rule," pleadings by incarcerated defendants/petitioners is considered filed "at the moment of delivery to prison authorities for forwarding to the district court." *United States v. Waite*, 12 F.4th 204, 2010 (2nd Cir. 2021) (citing a quotation from *Houston v. Lack*, 487 U.S. 266, 270 (1988)).

This grants me 30 full days from the date I *received* the government's response (if any), to the date I would be required to hand a reply to the prison staff here at USP Lee. The government filed their response on May 6, 2022, and I received that response on May 10, 2022. Therefore, the current schedule makes my reply due on June 9, 2022.

II. THE NEED FOR AN EXTENSION

In their response, the government argues several points that require a reply. The government argues that I do not understand the nature of New York law, and that I am over-extending the reach of *Borden*. The government also argues, from essentially thin air, that an approach different than what was used in *Borden* applies.

In order to effectively research and answer these arguments, I will need more than 30 days. I am inmate (not a professional lawyer) and I have limited access to the law library at USP Lee. I work my inmate job as an Orderly and work that job from 5pm until lock-in, which is 8:45 pm. It is a tricky issue to conduct case law research and writing

because we, here at USP Lee, often go on general lock-down because the Special Housing Unit (SHU) is full. That means the handling of incidents requires a lock-down of the entire unit, preventing me from accessing research and writing resources.

I believe that I will need another 30 days in order to write a complete reply, enabling this Court to rule on the merits of this case, rather than summarily dismissing the petition for lack of complete argumentation.

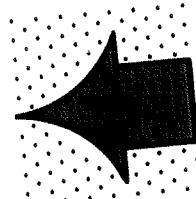
III. CONCLUSION

For the foregoing reasons, I respectfully request that this Court grant a 30 day extension to the due date for my reply making it timely if filed on or before July 11, 2022.

Submitted this 26 day of May, 2022



Leonard Matthews #79957-054
USP Lee
United States Penitentiary
P.O. Box 305
Jonesville, VA 24263-0305
Petitioner in *Pro Se*



Certificate of Service

With my signature above, I attest that I have mailed identical copies of the foregoing motion upon the Clerk of the Court and the representative of the government. I have affected service by placing the same in postage prepaid envelopes in the prison mail system here at USP Lee. Each were respectively addressed to the following:

Justin V. Rodriguez

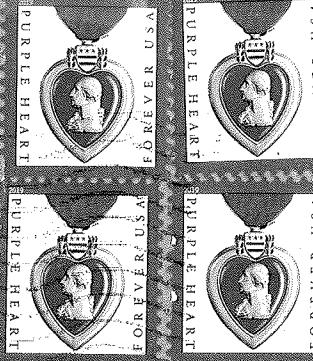
United States District Court, SDNY
One St. Andrew's Plaza
New York, NY 10007

Clerk of the U.S. District Court

Southern District of New York – Foley Sq.
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